

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOSE RENE LOPEZ,

Plaintiff,

V.

UNKNOWN,

## Defendants.

Case No. 08-5027 FDB/KLS

## ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL

Before the Court is Plaintiff's motion for appointment of counsel. (Dkt. # 9). Having reviewed the motion and balance of the record, the Court finds for the reasons stated below that Plaintiff's motion should be denied.

## I. DISCUSSION

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331. Neither of these factors is dispositive and both must be viewed together before reaching a decision on request of counsel under Section 1915(d). *Id.*

## ORDER - 1

1       Although Plaintiff has been ordered to show cause why his complaint should not be  
2 dismissed for failure to state a claim and instructed that he should name specific defendants and  
3 allege more specific facts (Dkt. # 7), Plaintiff has not demonstrated that he cannot articulate his  
4 claims, that the issues in this case are complex or that there is a likelihood of success on the merits.  
5 The difficulties claimed by Plaintiff are of the type which many pro se litigants encounter and do  
6 not indicate exceptional factors. The Court will provide further guidance and Plaintiff will be given  
7 a second deadline to submit an acceptable complaint before a recommendation is made to dismiss  
8 for failure to state a claim.

9       The record reflects that Plaintiff is not a stranger to the legal system. Plaintiff has proceeded  
10 pro se before and just recently sought discretionary review of his underlying judgment and sentence  
11 from the Washington Supreme Court. (Dkt. # 8, Attachment at p. 2, In Re Personal Restraint  
12 Petition of Jose Rene Lopez, Court of Appeals No. 25750-9-III).

13       Plaintiff also claims to be a mental patient who wants to be released from the Washington  
14 State prison system to a mental institution, however, he offers no basis for such a claim or any  
15 evidence that any medical condition prevents him from presenting his claims.

16       Accordingly, the Court finds that counsel is not necessary in this case and Plaintiff's motion  
17 to appoint counsel (Dkt. # 9) is **DENIED**.

18       The Clerk is directed to send copies of this Order to Plaintiff.

19       DATED this 7th day of March, 2008.

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Karen L. Strombom  
United States Magistrate Judge